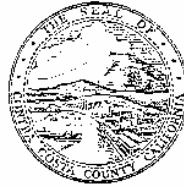


Community  
Development  
Department

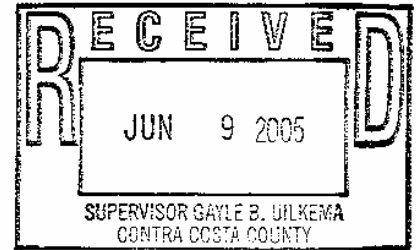
County Administration Building  
651 Pine Street  
4th Floor, North Wing  
Martinez, California 94553-0095

Phone: (925) 335-1214

Contra  
Costa  
County



Dennis M. Barry, AICP  
Community Development Director



June 8, 2005

Design Review Commission  
City of Lafayette  
Attn: Lindy Coburn  
3675 Mt. Diablo Boulevard, Suite 210  
Lafayette, CA 94549-1968

Dear Design Review Commissioners:

**Re: Request for a Hillside Development Permit for a  
New Residence at the Top of Peaceful Lane  
APN 175-060-006**

**City File #HDP72-04 (Tim Ward – Applicant; Barry Haji – Owner)**

This is in response to your referral on this application.

The subject site involves a 22-acre ridgeline property. With the notable exception of the ridgetop portion of the site immediately north of the EBMUD water tank, most of the property appears to have slopes of 2:1 (horizontal-to-vertical; 50%) or greater.

1. County Slope/Ridgeline Protection Policies - While we recognize that the County development policies and regulations do not apply within the City, the County General Plan slope and ridgeline protection policies appear to be harmonious with City regulation of hillside properties. It should be noted that County slope protection policies apply to properties with gradients that exist on this site; that is, to slopes with a gradient of 26% or greater. Moreover, those policies are aimed at assuring safe, aesthetic, and otherwise compatible development of properties with slopes and ridgelines that are protected by policy.

2. Suggested Clarification of Legal Status of Property – In reviewing the Assessor's Map that depicts this site, we found no evidence that the site is a product of a subdivision. We also did not find any other documentation in the referral materials from the City that established the lawful status of the site. When I discussed this matter with the project planner last week, it was not clear that the City had as yet determined that the site constitutes a lawful property under subdivision law.<sup>1</sup>

While the site is represented by an Assessor's Parcel Number (or that it is larger than nearby lawful parcels) does not necessarily mean that the site was lawfully created. Parcel numbers are used for the purpose of administrative convenience for the function and purpose of raising revenue, and may not be relied upon as compliance with the Subdivision Map Act.<sup>2</sup>

We also understand that the City's zoning regulations also require that the City determine whether the site is an "existing lot of record."

We also realize that subdivision law recognizes some properties as lawful that are not the product of a subdivision procedure. Still, before granting any development permit for the site, we would encourage the City to obtain the necessary documentation to satisfy itself that the site is lawful under subdivision law. Often this task involves obtaining a chain-of-title for the property for purposes of reviewing its history and evolution relative to applicable requirements of subdivision law as that law has evolved.

3. Delay in Response to the City Referral – We sincerely regret the delay in responding to the referral from the City. However, this matter did not reach our attention until we received a second copy of the referral three weeks ago.

We note that the referral form from the City uses the antiquated name of our agency, the Contra Costa County Planning Department.<sup>3</sup> It is possible that the use of the antiquated name caused the referral to be misdirected. If you wish to refer future projects to our agency, we

<sup>1</sup> Government Code 66499.34 prohibits local agencies (including the City of Lafayette) from issuing any permit or granting any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of the Subdivision Map Act (and City Subdivision Ordinance) if it finds that development of such real property is contrary to the public health or safety.

<sup>2</sup> 62 Ops. Cal. Atty. Gen. 147 (1979)

<sup>3</sup> Our agency was renamed the Community Development Department in the 1980's.

would encourage you to change the name of our agency on your referral form to our current name.

Should you have any questions, please call me at 335-1214.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Drake", with a long horizontal flourish extending to the right.

ROBERT H. DRAKE  
Principal Planner

Att. Assessor's Map

Cc: Barry Haji  
Tim Ward, Ward-Young Architects  
Catherine Kutsuris  
File